

MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE SUBJECT PRISONER/PAROLEE GRIEVANCES	EFFECTIVE DATE 12/19/2003	NUMBER 03.02.130
	SUPERSEDES 03.02.130 (04/28/03)	
	AUTHORITY MCL 791.203	
	ACA STANDARDS 4-4016; 4-4180; 4-4284; 4-4344	
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POLICY STATEMENT:

Prisoners and parolees shall be provided with an effective method of seeking redress for alleged violations of policy and procedure or unsatisfactory conditions of confinement.

POLICY:

DEFINITIONS

- A. Respondent: The staff person who investigates and responds to a grievance.

GENERAL INFORMATION

- B. For purposes of this policy, "Warden" includes the Administrator of the Special Alternative Incarceration Program (SAI) facility, unless otherwise specified.
- C. The grievance process shall be equally available to all prisoners housed in Correctional Facilities Administration (CFA) and Field Operations Administration (FOA) facilities and all parolees, unless placed on modified access pursuant to this policy. Prisoners at the Michigan Youth Correctional Facility shall utilize the grievance process as set forth in PD 05.01.145 "Michigan Youth Correctional Facility". Probationers are not covered by this policy but may resolve specific problems and complaints with supervising staff and, if not resolved, with the sentencing court or, if in SAI, as set forth in PD 06.04.105 "Special Alternative Incarceration Program".
- D. Grievances filed by female prisoners regarding allegations of sexual misconduct or other conduct in violation of PD 03.03.140 "Prohibited Conduct in Facilities Housing Female Prisoners" shall be investigated and processed by staff in accordance with PD 03.03.140 where in conflict with this policy. However, complaints made pursuant to PD 03.03.140 shall serve to exhaust a prisoner's administrative remedies only when filed as a grievance in compliance with this policy directive.
- E. Grievances may be submitted regarding alleged violations of policy or procedure or unsatisfactory conditions of confinement which directly affect the grievant. This includes alleged violations of this policy and related procedures. A grievant may not grieve the content of policy or procedure; such grievances shall be rejected by the grievance coordinator. If a CFA prisoner has a concern with the content of a policy or procedure, s/he may direct comments to the Warden's Forum as provided in PD 04.01.150 "Prisoner Housing Unit Representatives/Warden's Forum". A copy of all Warden's Forum minutes shall be sent to the Prisoner Affairs Section in the Office of Audit, Internal Affairs and Litigation (OAIAL) for review of all issues relevant to policy and procedure and the prisoner grievance process.
- F. Two or more prisoners and/or parolees may not jointly file a single grievance regarding an issue of mutual impact or submit identical individual grievances regarding a given issue as an organized protest. Such grievances shall be rejected by the grievance coordinator. Grievances that raise the following non-grievable issues also shall be rejected by the Grievance Coordinator:
1. Decisions made in hearings conducted by hearing officers of the Hearings and Appeals Division of the Office of Policy and Hearings (OPH) and decisions made in minor misconduct hearings.

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2. Decisions made by the Parole Board and recommendations made by its hearing officers to grant, deny, rescind, amend or revoke parole, or not to proceed with a lifer interview or a public hearing.
 3. Issues not within the authority of the Department to resolve.
- G. Prisoners and parolees are required to file grievances in a responsible manner. A grievance shall be rejected by the Grievance Coordinator if it contains profanity, threats of physical harm, or language which demeans the character, race, ethnicity, physical appearance, gender, religion or national origin of any person, unless it is part of the description of the grieved behavior and is essential to that description. A grievance also may be rejected for any of the following reasons:
1. It is vague, illegible, contains multiple unrelated issues, or raises issues that are duplicative of those raised in another grievance filed by the grievant.
 2. The grievant is on modified access pursuant to Paragraph JJ through NN and has filed a grievance in violation of those paragraphs.
 3. The grievant did not attempt to resolve the issue with the staff member involved prior to filing the grievance unless prevented by circumstances beyond his/her control.
 4. The grievance is filed in an untimely manner. The grievance shall not be rejected if there is a valid reason for the delay; e.g., transfer.
- H. In CFA, grievances shall not be rejected or denied solely because the prisoner has not included with his/her grievance exhibits or other documents related to the grievance. If the grievance references documents and those documents are not in the prisoner's files or otherwise available to the grievance coordinator or respondent except through the prisoner, the documents shall be reviewed with the prisoner as part of the grievance investigation process. If the grievance coordinator or respondent determines that a copy of a document is needed for the grievance investigation, the copy shall be made at Department expense.
- I. A grievant whose grievance is rejected may appeal the rejection to the next step as set forth in this policy. A new grievance shall not be filed regarding the rejection.
- J. Grievances shall not be placed in Counselor files, Record Office files, field files or Central Office files, nor shall they be referenced on any document placed in these files except as necessary pursuant to Paragraph L. Grievance documents and files shall be accessed only to investigate or respond to a pending grievance, to respond to a request under the Freedom of Information Act, to respond to a request from the Department of Attorney General or appropriate Central Office staff, or for audits or statistical reporting.
- K. A grievant shall not be penalized in any way for filing a grievance except as provided in this policy for misusing the grievance process. Staff shall avoid any action that gives the appearance of reprisal for using the grievance process or for assisting other grievants in its use. If a grievant believes s/he has been subjected to acts of reprisal, s/he may file a grievance.
- L. If a grievant intentionally files a grievance which is investigated and determined to be unfounded which, if proven true, may have caused an employee or a prisoner to be disciplined or an employee to receive corrective action, the grievant may be placed on modified access consistent with Paragraphs JJ through NN. In addition, if the grievant is a prisoner, s/he may be issued a misconduct report if approved by the Warden or FOA Area Manager; however, major misconduct for Interference with the Administration of Rules shall be issued only if approved by the Warden or FOA Area Manager after consultation with the appropriate Deputy Director or designee. The misconduct report shall be processed as set forth in

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PD 03.03.105 "Prisoner Discipline".

- M. Wardens and FOA Area Managers shall ensure a prisoners and parolees are provided assistance in completing a grievance form, if needed. In such cases, assistance shall be provided by a staff member who is not involved in the grievance.

HURON VALLEY CENTER

- N. Grievances filed by a prisoner at the Huron Valley Center (HVC) involving the prisoner's incarceration (e.g., time computation, disciplinary credits, good time, access to law books from the Huron Valley Correctional Facility) shall be forwarded to the Grievance Coordinator at the Huron Valley Correctional Facility for processing and response.
- O. Grievances filed by a prisoner at HVC relating to the prisoner's treatment and living conditions (e.g., quality of the food, room temperatures, not receiving hygiene items, complaints regarding staff, visitor restrictions that are incorrectly imposed) will be responded to by the Department of Community Health (DCH), using the patient grievance process developed by DCH. Grievances answered at the Step III level by the Director of the Bureau of Forensic Mental Health Services shall be forwarded to the Prisoner Affairs Section for record keeping.

GRIEVANCE COORDINATORS

- P. In the SAI facility and in each CFA institution, the Warden shall designate at least one staff member to serve as the Step I Grievance Coordinator and at least one staff member to serve as the Step II Grievance Coordinator. The FOA Deputy Director shall designate staff members to serve as Step I Grievance Coordinators and Step II Grievance Coordinators for each FOA field office, corrections center and Technical Rule Violation Center (TRV). Step III grievances shall be processed by the Prisoner Affairs Section.
- Q. Each Step I Grievance Coordinator shall prepare and submit monthly reports on grievances filed in his/her respective facility or office to the Prisoner Affairs Section, as directed by the Manager of the Prisoner Affairs Section. The monthly report shall include information on the subject matter of each grievance filed and, for rejected grievances, the basis for the rejection.

GRIEVANCE PROCESS

- R. In an effort to resolve grievable issues as soon as possible, prior to submitting a written grievance, the grievant shall attempt to resolve the issue with the staff member involved within two business days after becoming aware of a grievable issue, unless prevented by circumstances beyond his/her control. If the complaint is not resolved, the grievant may file a Step I grievance. A Step I grievance also may be filed in accordance with OP 03.02.130-A "State Administrative Board Prisoner Property Reimbursement" if the grievance is seeking reimbursement for property lost or destroyed while in the Department's sole possession. If the grievant is dissatisfied with the Step I response, or does not receive a timely response, s/he may appeal to Step II. If the grievant is dissatisfied with the Step II response, or does not receive a timely response, s/he may appeal to Step III.
- S. A grievant may file a grievance alleging racial or ethnic discrimination or staff brutality or corruption directly to Step III. A grievant also may file a grievance directly to Step III regarding his/her removal as a housing unit representative by the Warden or CFA Deputy Director pursuant to PD 04.01.150 "Prisoner Housing Unit Representatives/Warden's Forum". In such cases, the Step III grievance must be sent to the Prisoner Affairs Section within the time frame set forth in Paragraph X for filing Step I grievances. Upon receipt, the grievance shall be carefully reviewed to determine whether to respond directly to the grievance, request an investigation into the issue raised in the grievance, or return it to the grievant for filing at Step I.
- T. A grievant shall use the Prisoner/Parolee Grievance form (CSJ-247A) to file a Step I grievance and to

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file a grievance directly with the Prisoner Affairs Section pursuant to Paragraph S; the Prisoner/Parolee Grievance Appeal form (CSJ-247B) shall be used to file a Step II or Step III grievance. The forms may be completed by hand or by typewriter however, handwriting must be legible. The issues shall be stated briefly. Information provided shall be limited to the facts involving the issue being grieved (i.e., who, what, when, where, why, how). Dates, times, places and names of all those involved in the issue being grieved are to be included. Information shall be confined to the form and shall not be written on the back, sides or margins of the form, or in the response area. Additional pages may be attached to the grievance form if necessary to provide required information; however, grievants are encouraged to limit the information to the grievance form. If additional pages are necessary, the grievant shall submit four copies of each additional page; grievance forms shall not be used for this purpose. Prisoners in a CFA institution may use an interdepartment mail run, if available, to send a grievance to another facility. If an interdepartment mail run is not available and the prisoner does not have sufficient funds to mail the grievance, postage shall be loaned as set forth in PD 05.03.118 "Prisoner Mail".

- U. Time limitations shall be adhered to by the grievant and staff in all steps of the grievance process. Grievances and grievance appeals at all steps shall be considered filed on the date sent by the grievant. The total grievance process from the point of filing a Step I grievance to providing a Step III response shall be completed within 90 calendar days unless an extension has been approved in writing by the Grievance Coordinator or the Prisoner Affairs Section at one of the steps in the grievance process. An extension shall not exceed 15 business days. The Grievance Coordinator or, at Step III, the Prisoner Affairs Section shall immediately notify the grievant in writing whenever an extension has been approved; the extension also shall be noted in the grievance response.
- V. If a grievant chooses to pursue a grievance which has not been responded to by staff within required time frames, including any extensions granted, the grievant may forward the grievance to the next step of the grievance process within ten business days after the response deadline expired, including any extensions which have been granted.
- W. Prisoners and staff who may be involved in the issue being grieved shall not participate in any capacity in the grievance investigation, review or response, except as necessary to provide information to the respondent.

Step I

- X. Within five business days after attempting to resolve a grievable issue with staff, a grievant may send a completed Prisoner/Parolee Grievance form (CSJ-247A) to the Step I Grievance Coordinator designated for the facility, field office or other office being grieved. If the office being grieved does not have a designated Grievance Coordinator, the grievant shall send the grievance to the Step I Grievance Coordinator for the facility in which s/he is housed or appropriate field office for processing.
- Y. The Grievance Coordinator shall log and assign a unique identifying number to each Step I grievance received, including those which may be rejected. Where available, the Grievance Coordinator shall use a computerized grievance tracking system for this purpose. The Grievance Coordinator shall determine if the grievance should be rejected pursuant to this policy and, if so, sign and return the grievance to the grievant with an explanation as to why it was rejected. In CFA, if the grievance is being rejected because it presents a non-grievable issue, the Grievance Coordinator's supervisor shall review the reason for the rejection to ensure it is in accordance with policy; both the Grievance Coordinator and the supervisor are required to sign the grievance before returning the grievance to the grievant. If the grievance is accepted, the Grievance Coordinator shall assign an appropriate respondent and identify the date by which the response is due. The due date shall be within 15 business days after receipt of the grievance, unless an extension is granted pursuant to Paragraph U. If the issue is of an emergent nature, the Grievance Coordinator may order a Step I response within two business days. The Grievance Coordinator may respond at Step I to grievances which require only minimal investigation or rejected for reasons authorized by this policy. However, if the Grievance Coordinator responds to the merits of the grievance, a grievance interview must be conducted as required in Paragraph AA.

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- Z. The respondent assigned pursuant to Paragraph Y shall generally be the supervisor of the person being grieved. The OPH Administrator shall designate a respondent for grievances involving OPH hearing officers and hearings conducted by OPH. The respondent for grievances involving the Parole Board shall be designated by the Parole Board Chairperson.
- AA. The respondent shall interview the grievant unless s/he refuses to participate in the interview, the respondent is not assigned to the location at which the grievant is confined, or, if the grievant is on parole in the community, the respondent does not have ready access to the field office to which the grievant is assigned. If the grievant is not interviewed, the reason shall be included in the written response to the grievance. The grievant shall have the opportunity to explain the grievance more completely at the interview, enabling the Step I respondent to gather any additional information needed to respond to the grievance. The interview also provides the opportunity to resolve the grievance to the mutual satisfaction of the grievant and the Department.
- BB. The respondent shall identify in the response the policies, rules or procedures that are directly related to the issue or conduct being grieved. Each Step I grievance response shall be reviewed by the respondent's supervisor prior to the grievance being returned to the Step I Grievance Coordinator to ensure that it appropriately addresses the issue raised in the grievance and accurately reflects Department policy and procedure. Where there is limited staffing in an FOA field office, corrections center or TRV, the requirement for supervisory review of a Step I response shall not apply if the response is prepared by an FOA supervisor/manager.
- CC. The Step I Grievance Coordinator shall ensure that a thorough investigation was completed for each Step I grievance accepted, that the response was reviewed by the appropriate supervisor and that a copy of the response is provided to the grievant by the due date, including any extension granted.

Step II

- DD. If a grievant is dissatisfied with the response received at Step I or does not receive a timely response, s/he may request a Prisoner/Parolee Grievance Appeal form (CSJ-247B) from the Step I Grievance Coordinator within five business days after receiving the Step I response or, if no response was received, within five business days after the date the response was due, including any extensions. The grievant must send the completed form CSJ-247B to the Step II Grievance Coordinator designated for the facility, field office or other office being grieved within five business days after receiving the CSJ-247B from the Step I Grievance Coordinator. If the office being grieved does not have a designated Grievance Coordinator, the grievant is to send the grievance to the Step II Grievance Coordinator for the facility in which s/he is housed or appropriate field office for processing.
- EE. The Grievance Coordinator shall log each Step II grievance received, including those which may be rejected. Where available, the Grievance Coordinator shall use a computerized grievance tracking system to do so. The Grievance Coordinator shall determine if the grievance should be rejected pursuant to this policy and, if so, return the grievance to the grievant with an explanation as to why it was rejected. If accepted, the Grievance Coordinator shall assign an appropriate respondent and indicate the date by which the response is due. The due date shall be within 15 business days after receipt of the grievance, unless an extension is granted as set forth in Paragraph U.
- FF. The respondents for Step II grievances shall be as follows:
 - 1. The Warden in CFA and SAI facilities, except that s/he may delegate this responsibility to the appropriate Deputy Warden if more than one institution is supervised. If the Warden supervises a camp, s/he may delegate this responsibility for camp grievances to the Assistant Deputy Warden at the camp.
 - 2. The appropriate Area Manager for FOA area offices, corrections centers and TRVs.

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3. The Regional Health Administrator or designee in grievances alleging inadequate medical care.
4. The Administrator of Michigan State Industries or designee for grievances involving that Bureau.
5. The OPH Administrator for grievances involving that Office.
6. The Parole Board Chairperson for grievances involving the Parole Board.
7. The Administrator of the Office of Field Programs for grievances involving that office.
8. The CFA Region III Business Manager for grievances involving administrative support functions for CFA facilities in Jackson.

GG. The Grievance Coordinator shall ensure that any additional investigation was completed as necessary for each Step II grievance accepted and that a copy of the response is provided to the grievant by the due date, including any extensions granted pursuant to Paragraph U.

Step III

- HH. If a grievant is dissatisfied with the response received at Step II or does not receive a timely response, s/he may send a completed Step III grievance to the Prisoner Affairs Section. The form must be sent within ten business days after receiving the Step II response or, if no response was received, within ten business days after the date the response was due, including any extensions. A grievant also may file a grievance directly to Step III in accordance with Paragraph S.
- II. The Prisoner Affairs Section shall be the respondent for Step III grievances on behalf of the Director. Each grievance received at Step III, including those which may be rejected, shall be logged on a computerized grievance tracking system. The tracking system shall include information on the subject matter of each grievance received and, for rejected grievances, the basis for the rejection. The Prisoner Affairs Section shall forward grievances regarding medical care or treatment filed against health care staff, including contractual staff, to the Administrator of the Bureau of Health Care Services (BHCS). The BHCS Administrator shall ensure the grievance is investigated and a response provided to the Prisoner Affairs Section in a timely manner. The Manager of the Prisoner Affairs Section shall ensure that any additional investigation is completed as necessary for each Step III grievance accepted and that a copy of the Step III response is provided to the grievant by the due date, including any extensions granted pursuant to Paragraph U.

MODIFIED ACCESS

- JJ. A prisoner or parolee who files an excessive number of grievances which are frivolous, vague, duplicative, raise non-grievable issues, or contain prohibited language as set forth in Paragraph G, or is found guilty of misconduct for filing an unfounded grievance as set forth in Paragraph L, may have access to the grievance process limited by the Warden or FOA Area Manager for an initial period of not more than 90 calendar days. If the prisoner or parolee continues to file such grievances while on modified access, the Warden or FOA Area Manager may extend the prisoner's or parolee's modified access status for not more than an additional 30 calendar days for each violation. In CFA, a recommendation to place a prisoner on modified access shall be submitted only by the Grievance Coordinator, with approval of his/her supervisor, and shall include a list of the grievances forming the basis for the recommendation and the reason for the recommendation; both the Grievance Coordinator and supervisor shall sign the recommendation.
- KK. The Warden or FOA Area Manager, as appropriate, shall ensure that a prisoner or parolee placed on modified access, or who has had that status extended, is immediately notified in writing of this determination. The Warden or FOA Area Manager also shall immediately notify the Prisoner Affairs Section in writing whenever s/he places a prisoner or parolee on modified access or extends that status.

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- LL. The Manager of the Prisoner Affairs Section also may place a prisoner or parolee on modified access, or extend that status, for the reasons set forth in Paragraph JJ. The Manager of the Prisoner Affairs Section shall ensure that each prisoner or parolee placed on modified access or who has that status extended is immediately notified in writing of that determination. The Manager of the Prisoner Affairs Section also shall ensure that the appropriate Warden or FOA Area Manager is notified in writing of the determination.
- MM. While on modified access, the prisoner or parolee shall be able to obtain grievance forms only through the Step I Grievance Coordinator. A grievance form shall be provided if the Step I Grievance Coordinator determines that the issue the prisoner or parolee wishes to grieve is grievable and otherwise meets the criteria outlined in this policy. The Grievance Coordinator shall maintain a record of requests received for grievance forms and whether the request was approved or denied and, if denied, the reason for the denial. If a prisoner or parolee on modified access attempts to file a grievance using a form not provided by the Grievance Coordinator, the prisoner or parolee shall be notified that the grievance will not be processed. The Warden, FOA Area Manager or Manager of the Prisoner Affairs Section may extend the prisoner's or parolee's modified access status for not more than an additional 30 days for each violation. Notification of such extensions shall be consistent with the requirements set forth in Paragraphs KK and LL.
- NN. A prisoner or parolee shall remain on modified access for the approved period even if transferred to another facility or field location. The Grievance Coordinator for the sending facility or field location shall ensure that the Grievance Coordinator for the receiving facility or field location is notified of this information.

OPERATING PROCEDURE

- OO. The OAIAL Administrator shall ensure that procedures are developed as necessary to implement requirements set forth in this policy directive no later than December 19, 2003. This requirement includes ensuring that their existing procedures are revised or rescinded, as appropriate, if inconsistent with policy requirements or no longer needed.

AUDIT ELEMENTS

- PP. A Primary Audit Elements List has been developed and will be provided to Wardens, the SAI facility Administrator, FOA Regional Administrators and the OAIAL Administrator to assist with self audit of this policy, pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

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